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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,984	01/29/2004	Mark A. Latkovic	31420.25324	5337
26781	7590	08/16/2007	EXAMINER	
BROUSE MCDOWELL LPA 388 SOUTH MAIN STREET SUITE 500 AKRON, OH 44311			TSOY, ELENA	
		ART UNIT	PAPER NUMBER	
		1762		
		MAIL DATE	DELIVERY MODE	
		08/16/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/767,984	LATKOVIC, MARK A.
	<b>Examiner</b>	<b>Art Unit</b>
	Elena Tsoy	1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 July 2007.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) 5,7,8,13,17,19 and 20 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-4,6,9-12,14-16 and 18 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
     Paper No(s)/Mail Date 4/29/04, 12/09/04.
- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

***Election/Restrictions***

1. Applicant's election without traverse of species of claims 6, 12 and 18 in the reply filed on July 6, 2007 is acknowledged. Claims 5, 7-8, 13, 17, and 19-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 6, and 9-12 are rejected under 35 U.S.C. 102(b or a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Dur-A-Shield Ad (Copyright 2002, 2003).

Dur-A-Shield disclose coating vinyl siding with a transparent polymer water-based solution such as Vinyl Renu which penetrates and chemically bonds to the treated surface to

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form extremely tough, optically clear protective shield (claimed revitalizer). The coating method comprises spraying the surface of the vinyl siding with a cleaning solution using a pump-up garden sprayer, rinsing, completely drying the siding, and applying Vinyl Renu, drying the applied polymer coat.

As to claims 9-10, the coating restores color and brilliance (claimed glossy finish).

It is the Examiner's position that the coated surface has a glossy finish, as claimed because the surface is treated by a method substantially identical to that of claimed invention.

As to claim 11, It is the Examiner's position that the cleaning solution contains detergent, as claimed. If this position could be argued, it would be obvious to one of ordinary skill in the art to use a detergent to provide better cleaning of the dirt siding.

5. Claims 1-4, 10-12, and 14-16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ebbeler (US 4353745).

Ebbeler discloses a method for providing a vinyl surface with *glossy, smooth, free of bubbles and "orange peel" clear polymer coating* (claimed revitalizing the vinyl surface) (See column 6, lines 27-31) that is resistant to atmospheric aging, scratch resistance, resistance against penetration by dirt (claimed revitalizing a surface) (See column 6, lines 25-32). The method comprises the steps of: cleaning the surface with a cleaning composition (See column 6, lines 62-67) containing non-ionic surfactant that acts as a wetting agent and assists in lifting dirt (claimed detergent) (See column 7, lines 21-23); wiping off dirt with a clean, lint-free cloth (claimed step of drying the surface); applying a first coat of the polymer composition that ensures strong adherence of the coating (See column 6, lines 65-67), applying a second coat of the polymer

composition; and drying the surface such that the surface has an improved appearance (See column 7, lines 52-57).

As to the step of priming, the specification as originally filed does not provide definition of term “priming”. It is held that in the absence of the definition, the term has to be given its *broadest* reasonable interpretation in light of the supporting disclosure. It is well known in the art that priming provides strong adherence of coating to the substrate surface. Therefore, the *broadest* reasonable interpretation of claimed priming step reads on Ebbeler’s step of applying the first coat of the polymer composition to the vinyl surface because the first coat ensures strong adherence of the coating to the vinyl surface.

6. Claims 6, 9, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ebbeler.

As to claims 6 and 18, the limitation “vinyl siding” of these claims has been given a little weight because it merely states the purpose or intended use of the invention. It is held that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See MPEP 2111.02 (II).

As to claim 9, it is the Examiner’s position that the vinyl surface includes colored surface because Ebbeler does not limit his teaching to only uncolored vinyl surface.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elena Tsoy whose telephone number is 571-272-1429. The examiner can normally be reached on Monday-Thursday, 9:00AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Elena Tsoy, Ph.D.  
Primary Examiner  
Art Unit 1762

ELENA TSOY  
PRIMARY EXAMINER  
*E. Tsoy*

August 10, 2007